

Message Text

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64
ORIGIN L-03

INFO OCT-01 ARA-06 ISO-00 CPR-01 SCS-03 SCA-01 PER-01 /016 R

DRAFTED BY L/M:HFSHAMWELL, JR
APPROVED BY L/M - K. E. MALMBORG
ARA/NC - INFO

----- 123335

O 252137Z AUG 76
FM SECSTATE WASHDC
TO AMEMBASSY BOGOTA IMMEDIATE

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E.O. 11652: N/A

TAGS: PFOR, CASC, AINF, CI

SUBJECT: SUBPOENA OF EMBASSY CONSULAR ASSISTANT

REF: BOGOTA 8474

1. DEPARTMENT AGREES WITH EMBASSY'S INTERPRETATION OF ARTICLE 44, PARA 3 OF VIENNA CONVENTION ON CONSULAR RELATIONS WITH RESPECT TO IMMUNITY OF MEMBERS OF THE CONSULAR POST FROM TESTIFYING IN COLOMBIAN COURTS RESPECTING MATTERS CONNECTED WITH THE EXERCISE OF HIS FUNCTIONS. DEPARTMENT SUPPORTS EMBASSY'S PROPOSED PROTEST TO THE MINISTRY OF FOREIGN AFFAIRS. ARTICLE 44, PARA 3 APPLIES TO ALL MEMBERS OF A CONSULAR POST, INCLUDING CONSULAR EMPLOYEES WHO ARE NATIONALS OF THE RECEIVING STATE. EMBASSY IS REFERRED TO ARTICLE 71 OF THE CONSULAR CONVENTION WHICH EXPRESSLY EXTENDS ARTICLE 44(3) TO NATIONALS AND PERMANENT RESIDENTS OF THE RECEIVING STATE. THIS ARTICLE SHOULD BE BROUGHT TO THE ATTENTION OF THE APPROPRIATE AUTHORITIES.

2. DEPARTMENT DOES NOT SEE A PRIVACY ACT CONSIDERATION IN THIS CASE. UNLESS THE EMPLOYEE IN QUESTION IS BEING REQUESTED TO SUPPLY NAME RETRIEVEABLE RECORDS ON A U.S. CITIZEN,
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THE PRIVACY ACT WOULD NOT APPLY. IF REQUESTIS MADE FOR

INFORMATION WITHIN THE EMPLOYEE'S OWN KNOWLEDGE CONCERNING
NON-U.S. CITIZENS, NO PRIVACY ACT CONSIDERATIONS ARE RAISED.
SINCE, HOWEVER, THE VIENNA CONVENTION PROHIBITION SATISFAC-
TORILY DISPOSES OF THE SUBPOENA IN QUESTION, IT IS NOT NECCE-
SARY TO RAISE PRIVACY ACT CONSIDERATIONS. KISSINGER

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